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APPENDIX.

[Vide item IV on page 70 supra.]

L.A. BILL No. 10 OF 1958)

(As passed by the Assembly.)

A Bill further to amend the Madras Children Act, 1920.

WHEREAS it is expedient further to amend the Madras Children Act, 1920 (Madras Act IV of 1920), for the purposes hereinafter appearing ;

BE it enacted in the Ninth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Madras Children (Amendment) Act, 1958.

2. *Substitution of long title and preamble in Madras Act IV of* 1920.—In the Madras Children Act, 1920 (Madras Act IV of 1920) (hereinafter referred to as the principal Act), for the long title and preamble, the following shall be substituted, namely :—

" *An Act to provide for the custody, trial, maintenance, welfare, education and character training of youthful offenders and the care, protection, maintenance, welfare, education and character training of children and young persons who are uncontrollable or are in moral danger, or destitute, or in need of care and protection.*

WHEREAS it is expedient to provide for the custody, trial, maintenance, welfare, education and character training of youthful offenders and the care, protection, maintenance, welfare, education and character training of children and young persons who are uncontrollable, or are in moral danger or destitute, or in need of care and protection;

IT is hereby enacted as follows :—".

3. *Substitution of certain provisions of Madras Act IV of* 1920.—The provisions of the principal Act specified in the first two columns of the annexed schedule are hereby amended to the extent and in the manner specified in the third and fourth columns thereof.

4. *Amendment of section* 3, *Madras Act IV of* 1920.—In clauses (2) and (3) of section 3 of the principal Act, for the word " sixteen ", the word " eighteen " shall be substituted.

5. *Amendment of section* 16, *Madras Act IV of* 1920.—In section 16 of the principal Act, for the words " may decline to receive any youthful offender or child proposed to be sent to them in pursuance of this Act, but when they have once accepted any such offender or child ", the words " shall receive, subject to the

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availability of accommodation in such school, any child or young person proposed to be sent to them in pursuance of this Act, and when they have once accepted any such child or young person" shall be substituted.

6. *Amendment of section* 18, *Madras Act IV of* 1920.—In sub-section (1) of section 18 of the principal Act, for the word "sixteen", the word "eighteen" shall be substituted.

7. *Insertion of new section* 19 *in Madras Act IV of* 1920.—After section 18 of the principal Act, the following section shall be inserted, namely :—

"19. *Custody in certain cases pending inquiry or trial.*—Notwithstanding anything contained in this Act or in any other law for the time being in force, whenever—

(*a*) under clause (*e*) of sub-section (1) of section 29, any person apparently under the age of sixteen years, or

(*b*) under section 36-H, any girl under the age of sixteen years, or

(*c*) any child or young person arrested on a charge of an offence under section 7 or section 8 of the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956), is brought before a court, such court shall, pending inquiry or trial, make an order placing such person, girl, child or young person in such custody and in such manner as may be prescribed."

8. *Amendment of section* 23, *Madras Act IV of* 1920.—In section 23 of the principal Act,—

(i) in sub-section (1), for the words "twelve years of age but less than sixteen years of age", the words "twelve years of age or upwards but less than eighteen years of age" shall be substituted;

(ii) sub-section (5) shall be omitted.

12. *Amendment of section* 29, *Madras Act IV of* 1920.—In section 24 of the principal Act,—

(i) in clause (*a*), for the word "eighteen", the word "twenty-one" shall be substituted;

(ii) for clause (*b*), the following clause shall be substituted, namely :—

"(*b*) in the case of a child sent to a junior approved school, such time not being less than two years as to the court may seem proper for the training and education of the child, but not in any case extending beyond the time when the child will, in the opinion of the court, attain the age of eighteen years.".

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10. *Amendment of section* 25, *Madras Act IV of* 1920.—In section 25 of the principal Act,—

(i) in sub-section (1),—

(*a*) in clause (*b*), for the words "committed to", the words "placed in" shall be substituted;

(*b*) in clause (*c*), for the words "committed to the custody of any suitable person, whether a relative or not, who is willing to undertake the care of the youthful offender, until he attains the age of sixteen years", the words "placed in the custody of any suitable person, whether a relative or not, who is willing to undertake the care of the youthful offender, until he attains the age of eighteen years" shall be substituted;

(ii) in sub-section (3), for the words "The parent, guardian, relative, or other person, to whose custody a youthful offender has been committed, or the probation officer or other person under whose supervision a youthful offender has been placed, may, at any time while the order committing him to such custody or placing him under such supervision remains in force and while the offender is under the age of sixteen years", the words "The parent, guardian, relative or other person in whose custody a youthful offender has been placed or the probation officer or other person under whose supervision a youthful offender has been placed, may, at any time while the order placing him in such custody or placing him under such supervision remains in force and while the offender is under the age of eighteen years" shall be substituted.

11. *Amendment of section* 28, *Madras Act IV of* 1920.—In section 28 of the principal Act,—

(i) in clause (*b*), for the words "by committing the offender to the custody", the words "by placing the offender in the custody" shall be substituted;

(ii) for clause (*c*), the following clause shall be substituted, namely,—

"(*c*) by placing the offender discharged under clause (*a*) or placed in custody under clause (*b*) under the supervision of a person named by court; or";

(iii) in clause (*d*), for the words "by committing the offender to the custody", the words "by placing the offender in the custody" shall be substituted;

(iv) clause (*g*) shall be omitted.

12. *Amendment of section* 29, *Madras Act V of* 1920.—In section 29 of the principal Act,—

(i) in sub-section (1),—

(*a*) in the opening paragraph, for the word "fourteen", the word "sixteen" shall be substituted;

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(*b*) after clause (*d*), the following clause shall be inserted, namely :—

" (*dd*) is found in any street or place of public resort begging or receiving alms, whether or not there is any pretence of singing, playing, performing or for the purpose of so begging or receiving alms; or ";

(ii) in sub-section (2), for the words " for the committal of the child to suitable custody in the prescribed manner until he attains the age of sixteen years ", the words " placing him in suitable custody in the prescribed manner until he attains the age of eighteen years " shall be substituted;

(iii) for sub-section (3), the following sub-section shall be substituted, namely :—

" (3) Any police officer or other person authorized by the State Government in this behalf may bring before a court any person apparently of the age of sixteen years so circumstanced that he would come within one or other of the descriptions mentioned in sub-section (1) and the court if satisfied, on inquiry of that fact and that it is expedient so to deal with him, may make an order placing him in suitable custody in the prescribed manner until he attains the age of eighteen years or for any shorter period;

Provided that a girl coming within the description mentioned in clause (*e*) of sub-section (1) may be placed in such custody until she attains the age of twenty-one years or for any shorter period." ;

(iv) in sub-section (4), for the words " committing a child or young person to ", the words " placing a child or young person to " shall be substituted.

13. In the heading under Part V of the principal Act, for the words " or committed to suitable custody ", the words " or placed in suitable custody " shall be substituted.

14. *Amendment of section* 31, *Madras Act IV of* 1920.—In sub-section (1) of section 31 of the principal Act, for the words " the committal of a child or young person to ", the words " placing a child or young person in " shall be substituted.

15. *Amendment of section* 34, *Madras Act IV of* 1920.—In section 34 of the principal Act, for the words " to whose custody he is committed ", in the two places where they occur, the words " in whose custody he is placed " shall be substituted.

16. *Amendment of section* 35, *Madras Act IV of* 1920.—In section 35 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

" (1) The State Government may at any time discharge a child placed in suitable cu...stody or a youthful offender or child detained in an approved school, either absolutely or on such conditions as the State Government approves.";

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(ii) in sub-section (2),—

(*a*) in clause (*a*), for the word "fourteen", the word "sixteen" shall be substituted;

(*b*) after clause (*b*), the following clauses shall be inserted, namely :—

"(*bb*) a child placed in suitable custody to be transferred to an approved school;

(*bbb*) a child detained in an approved school to be transferred to suitable custody;";

(*c*) in clause (*d*), for the word "fourteen", the word "sixteen" shall be substituted;

(*d*) in clause (*e*), for the word "sixteen", the word "eighteen" shall be substituted;

(iii) in sub-section (2-A), after the brackets and letter "(*b*)", the brackets and letters "(*bb*), (*bbb*)" shall be inserted.

17. *Insertion of new section 35-B in Madras Act IV of* 1920.—After section 35-A of the principal Act, the following section shall be inserted, namely :—

"35-B. *Child to be placed under the supervision of a probation officer.*—In respect of a youthful offender, child or young person detained as an inmate in an approved school, due for discharge or release, the Chief Inspector, if satisfied that he is incorrigible and that in the interests of the inmate it is expedient to place him, after discharge or release, under the supervision of a probation officer, or in an after-care organization, may make an order placing the inmate so discharged or released under the supervision of a probation officer or in an after-care organization established or recognized under the rules made under section 38-A, for a period to be specified in the order."

18. *Amendment of section* 36, *Madras Act IV of* 1920.—In section 36 of the principal Act,—

(i) in sub-section (2), the words "unless the child or young person is tried jointly with any other person not being a child or young person" shall be omitted;

(ii) after sub-section (2), the following sub-sections shall be added, namely :—

"(3) Any court dealing with any case under section 29 shall, whenever practicable, sit either in a different building or room from that in which the ordinary sittings of the court are held or on different dates or at different times from those at which the ordinary sittings are held.

(4) When any juvenile court is, whether on application made to it or otherwise, of opinion that an accused in any trial before that court has committed the offence solely at, and in consequence of, the instigation of an adult, it may direct an investigation to be made by any Police Officer against that adult

and such investigation shall be deemed to be an investigation under Chapter XIV of the Code of Criminal Procedure, 1898 (Central Act V of 1898)."

19. *Insertion of new Part VI-A in Madras Act IV of* 1920.—After Part VI of the principal Act, the following Part shall be inserted, namely :—

"PART VI-A.

SPECIAL OFFENCES IN RESPECT OF CHILDREN AND YOUNG PERSONS.

36-A. *Punishment for cruelty to children and young persons.*—(1) Whoever having the actual charge of, or control over, a child or young person wilfully assaults, ill-treats, neglects, abandons or exposes him or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed or neglects, in a manner likely to cause unnecessary mental or physical suffering to provide adequate food, clothes or medical aid or lodging for the child or young person shall, on conviction, be punishable with imprisonment of either description, for a term which may extend to two years or with fine which may extend to one thousand rupees or with both :

Provided that where the offence under this section is committed against a woman, being a married young person, the court trying the offence may, for reasons to be recorded in writing, permit the offence to be compounded by the husband or if the husband is the person accused of such offence by some person who had care of her before her marriage.

(2) The infliction of reasonable punishment on a child or young person for a proper reason shall not be deemed to be an offence under this section.

36-B. *Employing children and young persons for begging.*—Whoever employs any child or young person for the purpose of begging or whoever having the custody, charge or care of a child or young person connives at or encourages or allows the employment of such child or young person for the purpose of begging, and whoever uses a child or young person as an exhibit for the purpose of begging shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one year or with fine which may extend to three hundred rupees or with both.

36-C. *Penalty for giving intoxicating liquor or dangerous drug to child or young person.*—Whoever gives or causes to be given to any child or young person any intoxicating liquor or dangerous drug or employs any child or young person for carrying or transporting liquor or dangerous drug the consumption of which is an offence under any law in force, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

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36-D. *Penalty for permitting child or young person to enter places where liquor or dangerous drug is sold.*—Whoever takes a child or young person to any place where intoxicating liquor or dangerous drugs are sold and whoever being the proprietor, owner or a person in charge of such place permits a child or young person to enter such place, and whoever causes or procures a child to go to such place, shall, on conviction, be punishable with fine which may extend to two hundred rupees.

36-E. *Inciting child or young person to bet or borrow.*—Whoever by words either spoken or written or by signs or otherwise incites or attempts to incite a child or young person to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or to borrow money or to enter into any transaction involving the borrowing of money, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

36-F. *Taking on pledge or purchasing articles from child or young person.*—Whoever purchases or takes on pledge any article from a child or young person whether offered by that child or young person on his own behalf or on behalf of any other person, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

36-G. *Allowing or permitting child or young person to be in brothel.*—Whoever allows or permits a child over the age of four years or a young person to reside in or frequently go to a brothel shall, on conviction, be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

36-H. *Young girls exposed to risk of seduction, etc.*—If it appears to a court on the complaint of any person that a girl under the age of sixteen years is with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

36-I. *Withholding of or living on earnings of child employees.*—(1) Whoever secures a child or young person ostensibly for the purpose of employment of labour and withholds or lives on the earnings of such child or young person, shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(2) Whoever exposes a child or young person to the risk of seduction, sodomy, prostitution or other immoral condition, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

36-J. *Offences under this Part cognizable.*—All offences under this Part shall be cognizable."

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20. *Amendment of section* 37, *Madras Act IV of* 1920.—In sub-section (1) of section 37 of the principal Act, for the word "sixteen", the word "eighteen" shall be substituted.

21. *Amendment of section* 38, *Madras Act IV of* 1920.—In sub-section (2) of section 38 of the principal Act, for the words "committed to suitable custody under this Act, the court in determining the person to whose custody the child or young person shall be committed", the words "placed in suitable custody under this Act, the court in determining the person in whose custody the child or young person shall be placed" shall be substituted.

22. *Insertion of new sections 38-A and 38-B in Madras Act IV of* 1920.—After section 38 of the principal Act, the following sections shall be inserted, namely :—

"38-A. *After-care organizations.*—(1) The State Government may, by rules made under this Act, provide for the establishment or recognition of after-care organizations and may vest them with such powers as may be necessary for effectively carrying out their functions under this Act.

(2) Every such organization shall take care of—

(*a*) children whose conduct in the approved schools, requires their being placed on probation;

(*b*) children whose rehabilitation on discharge from approved schools, requires further attention; and

(*c*) such other children, as in the opinion of the State Government, require to be kept in suitable custody.

38-B. *No joint trial of child or young person and adult.*—(1) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), or any other law for the time being in force, no child or young person shall be charged with, or tried for, any offence together with an adult.

(2) If a child or young person is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), or any other law for the time being in force, such child or young person and an adult would, but for the prohibition contained in sub-section (1), have been charged and tried together, the court taking cognizance of that offence shall direct separate trials of the child or young person and the adult."

23. *Insertion of new sections 39-A, 39-B, 39-C and 39-D in Madras Act IV of* 1920.—After section 39 of the principal Act, the following sections shall be inserted, namely :—

"39-A. *Circumstances to be taken into consideration in making orders under this Act.*—For the purpose of making any order in respect of a child or young person under this Act, a competent court shall have regard to the following circumstances, namely :—

(*a*) the age of the child or young person;

(*b*) the circumstances in which the child or young person or parent of the child or young person is living;

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(c) the reports made by or obtained from the probation officer;

(d) the reports made by or obtained from any person or organization approved by the State Government for the purpose;

(e) the religious persuasion of the child or young person; and

(f) such other circumstances as may, in the opinion of the competent court, require to be taken into consideration in the interests of the child or young person as the case may be :

Provided that in the case of a youthful offender, the above circumstances shall be taken into consideration after the competent court has recorded a finding against the person that he has committed the offence.

39-B. *Appointment of Probation Officers.*—(1) The State Government or such authority as may be empowered by it in this behalf may appoint probation officers for carrying out the purposes of this Act.

(2) Subject to any rules that may be made under this Act, it shall be the duty of the probation officer—

(a) to visit children and young persons in need of protection and youthful offenders at such intervals as the probation officer may think fit;

(b) to report to the competent court on the behaviour of any child or young person in need of protection or any youthful offender;

(c) to advise and assist children and young persons in need of protection or youthful offenders and if necessary, endeavour to find them suitable employment;

(d) where a child or young person in need of protection or a youthful offender is placed under the care of any person on certain conditions, to see whether such conditions are being complied with; and

(e) to perform such other duties as may be prescribed.

39-C. *Reports to be treated confidential.*—The report of the probation officer or any other report considered by the competent court under section 39-B shall be treated as confidential :

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or young person or parent of the child or young person is living, the competent court may, if it thinks it expedient, communicate the substance thereof to the child or young person or parent of the child or young person concerned, as the case may be, and may give the child or young person or parent an opportunity to produce such evidence as may be relevant to the matter stated in the report.

39-D. *Prohibition of publication of names, etc., of children and young persons involved in any proceedings under this Act.*—(1) No report in any newspaper, magazine or news sheet of any inquiry

regarding a child or young person under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the child or young person nor shall any picture of any such child or young person be published:

Provided that for reasons to be recorded in writing the court holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interests of the child, or young person as the case may be.

(2) Any person contravening the provisions of sub-section (1) shall be punishable with fine which may extend to one thousand rupees."

24. *Amendment of section* 40, *Madras Act IV of* 1920.—In section 40 of the principal Act, for the words "Any person to whose custody a child or young person is committed", the words "Any person in whose custody a child or young person is placed" shall be substituted.

25. *Amendment of section* 44, *Madras Act IV of* 1920.—In section 44 of the principal Act—

(1) in sub-section (2)—

(i) after clause (*a*), the following clauses shall be inserted, namely:—

"(*aa*) the establishment or recognition of rescue homes and the classes of children, young persons or youthful offenders that may be sent to such homes;

(*aaa*) the establishment or recognition of homes and institutions to which children, young persons and youthful offenders who are mentally deficient or physically handicapped or are suffering from contagious or incurable diseases may be sent for detention;";

(ii) in clause (*b*), after the word "schools", the words "rescue homes" shall be inserted;

(iii) for clause (*e*), the following clause shall be substituted, namely:—

"(*e*) the maintenance of the inmates of approved schools and the education and training of such inmates either in such schools or in special cases, in educational institutions or institutions for professional, vocational or technical training outside the limits of such schools;"

(iv) in clause (*l*), for the words "committed to", the words "placed in" shall be substituted;

(2) after sub-section (3) the following sub-section shall be added, namely:—

"(4) All rules made under this Act shall, as soon as possible after they are made, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendments or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session."

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THE SCHEDULE.

(*See* section 3.)

Section.	*Sub-section.*	For *the words.*	Substitute *the words.*
(1)	(2)	(3)	(4)
3	(1)	a certified	an approved
3	(3)	transportation or imprisonment	imprisonment
3	(5)	certified	approved
3	(6)	junior certified school a certified school	junior approved school an approved school
3	(7)	senior certified school a certified school	senior approved school an approved school
5	(1)	a certified school	an approved school
Part II—Heading		senior certified and junior certified schools	senior approved and junior approved schools
6	Marginal note	certification	approval
	(1)	certified	approved
	(2)	certify that any senior certified or junior certified school not established under sub-section (1) is fit.	approve any senior approved or junior approved school not established under sub-section (1) as being fit
7	..	certified	approved
8	..	certified	approved
9	..	a certified school	an approved school
10	..	certified	approved
11	(including marginal note)	certificate a certified school	approval an approved school
12	(including marginal note)	certificate a certified school	approval an approved school
13	(including marginal note)	certificate a certified school	approval an approved school
14	(including marginal note)	a certified school other certified school certificate	an approved school other approved school approval
15	..	certified certify the certificate a certificate	approved approve the approval an approval
16	..	a certified school certificate	an approved school approval
17	Marginal note	uncertified	unapproved
21	..	certified	approved
22	..	transportation or imprisonment certified	or imprisonment approved
23	(including marginal note)	certified transportation or imprisonment senior certified school junior certified school a certified school	approved imprisonment senior approved school junior approved school an approved school
	Marginal note	sixteen	eighteen

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Section.	*Sub-section.*	For *the words.*	Substitute *the words.*
(1)	(2)	(3)	(4)
24	..	a certified school senior certified school	an approved school senior approved school
25	(1) and (3) Marginal note	a certified school to commit him to	an approved school to place him in
28	..	certified school	approved school
29	(including marginal note)	certified schools transportation or imprisonment certified school	approved schools imprisonment approved school
29	(2) Marginal note	power to commit child to suitable custody	power to place child in suitable custody
29	(3) Marginal note	power to commit young person to care of relative or fit person in certain cases.	power to place young person in suitable custody
30	..	a certified school certified school	an approved school approved school.
Part V—Heading		certified	approved
31	(1)	a certified school	an approved school
32	..	certified	approved
33	(1) and (6)	a certified school	an approved school
34	(a)	a certified school	an approved school
35	(2)	senior certified school junior certified school	senior approved school junior approved school
35-A	(including marginal note)	certified schools	approved schools
	(1)	certified school a certified school	approved school an approved school
	(2)	any certified school	any approved school
	(3)	a certified school any certified school	an approved school any approved school
38	(1)	certified	approved
44	(2)	certified certification uncertified	approved approval unapproved.

